HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.13365 of 1998

Dated 2nd day of July, 2007

Between:

The State of A.P.
Through Forest Range Officer,
Raikal, Karimnagar District .. Petitioner

And

T. Veeresham
and two others .. Respondents

O R D E R:

This writ petition is filed to quash the judgment, dated 27.12.1997 in C.M.A.No.29 of 1995 delivered by the 2nd respondent-I Additional District Judge, Karimnagar and Rc.No.170/1/94 dated 5.10.1994 issued by the 3rd respondent.

The facts of the case in brief are that on 25.7.1994, at 10.00 P.M., on reliable information, the petitioner-Forest Range Officer inspected a van bearing No.AP15 T 0320

belonging to the 1st respondent at Allipur village and found nine teak logs being transported without any permit. The petitioner registered a case in P.R.O.No.17 of 1992, dated 26.7.1994, seized the vehicle and the teak wood and recorded the statements of the accused i.e. the driver and the cleaner of the crime vehicle. The accused and the 1st respondent, who is the owner of the vehicle, signed B-Form agreeing to get the case compounded. Then, the 3rd respondent-Sub-Divisional Forest Officer passed an order compounding the offence and imposed compounding fees of Rs.1,18,160/-. When the 1st respondent-owner expressed his inability to pay the fees and requested to release the lorry, the 3rd respondent initiated proceedings dated 5.10.1994 ordering confiscation of the crime vehicle and the seized teak logs. Aggrieved by it, when the 1st respondent-owner preferred C.M.A.No.29 of 1995, the 2nd respondent-I Addl. District Judge, by his judgment dated 27.12.1997, while confirming the confiscation of the teak logs, held that the crime vehicle is not liable for confiscation and thus ordered its release in favour of the 1st respondent. Questioning the judgment, the petitioner-Forest Department, represented by its Forest Range Officer, has filed this writ petition.

In spite of the fact that notices were served on the respondents, they have not chosen to file counter affidavit.

Heard the learned Government Pleader for Forests appearing for the petitioner and perused the material placed on record.

No doubt, Section 44 of A.P. Forest Act, 1967 empowers the Forest Department to seize any crime vehicle that is used in committing the offence such as transportation of timer or forest produce. However, a Full Bench of this Court interpreted the Section by holding that *mens rea* is very much required to come to the conclusion that the vehicle in which the illegal transportation took place also is liable for confiscation. Of course, the same is questioned in Supreme Court and the matter is pending. However, as of now, the law is clear that simply because a vehicle is involved in a forest crime, the same cannot be confiscated unless it is established that the same is done with the connivance of the owner of the crime vehicle. The 2nd respondent-I Additional District Judge has gone into this aspect and come to the conclusion that the 1st respondent, who is the owner of the vehicle, has no knowledge about the alleged offence or illegal transportation of the teak logs, and thus, ordered release of the vehicle .

Hence, I see no merits in this writ petition, and the same is accordingly dismissed. No costs.

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02.07.2007

bcj